



United States Attorney
Southern District of New York

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July 19, 2018

VIA ECF and BY HAND

Hon. George B. Daniels
United States District Judge
United States District Court
500 Pearl Street
New York, New York 10007

**Re: *ACLU v. Dep't of Health and Human Services, et al.*,
No. 17 Civ. 5514 (GBD) (GWG)
Joint Request to Adjourn July 24 Conference**

Dear Judge Daniels:

This Office represents defendants the Department of Health and Human Services (“HHS”), the Department of Justice (“DOJ”), the Department of Labor (“DOL”), and the Department of the Treasury (“Treasury”) in the above-referenced proceeding brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (the “FOIA”). I write respectfully to request that the Court adjourn the status conference presently scheduled for July 24, 2018, at 9:45 a.m. by approximately sixty days. The purpose of the adjournment request is to allow the defendant agencies (or components thereof) to continue their processing of records responsive to plaintiff’s FOIA request and to allow the parties to continue their discussions regarding such records.

By way of background, this action concerns ACLU’s FOIA requests for records relating to certain alleged religion-based exemptions. ECF No. 1. By Orders dated August 22 and 24, 2017, the Court referred this matter to the Hon. Gabriel W. Gorenstein for general pretrial purposes, and rescheduled the initial pretrial conference for March 6, 2018.¹ *See* ECF Nos. 20, 21. On November 2, 2017, Judge Gorenstein ordered the parties to provide a joint status letter every sixty days. *See* ECF No. 27. The parties filed status letters on January 2, March 5, May 4, and July 11 (which originally was due July 3 but was delayed due to illness and scheduling issues). *See* ECF Nos. 28, 31, 34, 36. The parties’ fifth status letter is due September 4, 2018.

¹ The Court initially scheduled the pretrial conference for October 3, 2017, *see* ECF No. 13, and subsequently granted defendants’ request to adjourn that conference to November 7, 2017, in connection with their request to extend the time to respond to the complaint, *see* ECF No. 19. The Court *sua sponte* rescheduled that conference to March 6, 2018, in light of its referral of the case to Judge Gorenstein. *See* ECF No. 21.

As the parties reported in their July 11 status letter, the following agencies and components have completed their responses, other than as noted: HHS (except for one additional custodian in the HHS Office of General Counsel whose records HHS has agreed to search upon ACLU's request); DOJ's Civil Division and Civil Rights Divisions; DOL's Office of the Solicitor; and Treasury. ACLU is not challenging the responses of these agencies or components.

The following components are still completing their responses. DOL's Office of Federal Contract Compliance Programs expects to issue a final response on July 20, 2018. DOL's Employee Benefits Security Administration expects to issue an interim response on July 20, 2018, and is evaluating the timing of its final response. DOJ's Office of Information Policy (which is processing plaintiff's FOIA request on behalf of the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, Legislative Affairs, and Legal Policy) issued an interim response on June 8, 2018, and expects to issue a final response by September 10, 2018. DOJ's Office of Legal Counsel issued an interim response on July 5, 2018, and expects to issue a final response by September 10, 2018.

We anticipate that the requested adjournment of the initial pretrial conference will permit the remaining defendants and components to conclude their searches for and processing of non-exempt, responsive records. If the Court grants the request, in order to avoid a potential conflict with religious observances, the parties respectfully note their availability for the conference during the last week of September or the first week of October. This is the parties' fourth request to adjourn the conference. Plaintiff consents to this request.

We thank the Court for its consideration.

Respectfully submitted,

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